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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/786,213	05/21/2001	Hiroji Yoshida	81833.0027	6580
26021	7590	06/17/2004		
HOGAN & HARTSON L.L.P. 500 S. GRAND AVENUE SUITE 1900 LOS ANGELES, CA 90071-2611			EXAMINER BOYD, JENNIFER A	
			ART UNIT	PAPER NUMBER
			1771	

DATE MAILED: 06/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

AS

Office Action Summary	Application No. 09/786,213	Applicant(s) YOSHIDA ET AL.	
	Examiner Jennifer A Boyd	Art Unit 1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-20 is/are pending in the application.
- 4a) Of the above claim(s) 13-17, 19 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. The Applicant's Amendments and Accompanying Remarks, filed April 1, 2004, have been entered and have been carefully considered. Claims 1 – 12 are cancelled, claims 13 – 20 are added and claims 13 – 20 are pending. In view of Applicant's cancellation of claims 1 – 12, the Examiner withdraws all previously set forth rejections as detailed in paragraphs 2 – 4 of the previous Office Action dated January 8, 2004. Despite these advances, the invention as currently claimed is not found to be patentable for reasons herein below.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Election/Restrictions

3. Newly submitted claims 13 – 17 and 19 – 20 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: In the Office Action dated January 2, 2003, the Examiner required an Restriction/Lack of Unity and the Applicant selected Group I, claims 1 – 3 and 7 – 9 drawn to a three-dimensional randomly oriented nonwoven. It should be noted that the common technical feature of a three-dimensional bonded nonwoven does not provide a contribution over the prior art, therefore, a restriction was and still deemed as appropriate. It should be noted that new claims 13 – 14, 16, 17 and 19 – 20 are drawn to a nonwoven structure made by a specified process which would be placed in Group II as detailed in the Restriction dated January 2, 2003 and new claim 15 is drawn to process for

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making a nonwoven which would be placed in Group III as detailed in the Restriction dated January 2, 2003.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 13 – 17 and 19 – 20 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 103

4. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nagano et al. (US 2002/0016120 A1).

Nagano teaches that the non-woven fabric has fiber lumps having a volume not less than 1 mm^3 is not more than 5 lumps per 20 grams of the non-woven fabric. Nagano teaches that the non-woven fabric is bulky (Abstract) and three-dimensional (page 2, [0025]). In Example 5, Nagano teaches a non-woven fabric comprising 30% polyester staple fibers and 70% side-by-side conjugated fibers consisting of a polypropylene component and a high density polyethylene component (page 6, [0086]), which is thermally treated to bond the fibers (page 7, [0086]).

Response to Arguments

5. Applicant's arguments filed April 1, 2004 have been fully considered but they are not persuasive.

In response to Applicant's arguments that the present invention is different than the

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invention of Nagano based on the method of production, it should be noted that although the fiber lumps may have been produced by a different method, the Applicant does not claim the method of producing the lumps in new claim 18. Therefore, the Examiner has maintained the same rejection for claim 18 as was previously used for cancelled claim 9. Also, it should be noted that in the Restriction Requirement dated January 2, 2003 the Applicant elected Group I, claims 1 – 3 and 7 – 9 drawn to a three-dimensional randomly oriented nonwoven. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer A Boyd whose telephone number is 571-272-1473. The examiner can normally be reached on Monday thru Friday (8:30am - 6:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jennifer Boyd
June 9, 2004



Ula C. Ruddock
Primary Examiner
Tech Center 1700